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PATENT ATTORNEY DOCKET NO. 70482

#### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Coppens et al. - - CERTIFICATE OF MAILING I hereby certify that this Serial No.: 08/898,736 paper is deposited with the U.S. Postal Service as first-class mail Filed: July 23, 1997 in an envelope addressed to: Commissioner of Patents & Title: PROCESS FOR THE Trademarks, Washington, D.C. PREPARATION OF MALTED 20231, on this date. CEREALS Group Art Unit: 1761 Attorney for Applicants Examiner: C. Sherrer

#### DECLARATION RE ATCC DEPOSIT

Honorable Commissioner of Patents and Trademarks Washington, D.C. 20231

#### Dear Sir:

The undersigned attorney certifies that the following microorganisms are on deposit with the American Type Culture Collection:

- a) Rhizopus oryzae NRRL 1427, now assigned PTA-3670;
- b) Rhizopus oryzae NRRL 1891, now assigned PTA-3671;
- c) Rhizopus oryzae ATCC 4858, now assigned PTA-3627;
- d) Aspergillus oryzae ATCC 14156, now assigned PTA-3628; and
  - e) Rhizopus oryzae ATCC 9363, now assigned PTA-3629.

As indicated in the attached copies of the deposit forms, and in accordance with 37 CFR 1.808 and MPEP 2404, the above-identified microorganisms will be irrevocably and without

restriction or condition released to the public upon issuance of a patent on the present application.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

By:

James P. Krueger

Registration No. 35,234

OCT 0 3 2001

Date:

Fitch, Even, Tabin & Flannery 120 So. LaSalle St., S/1600

Chicago, IL 60603-3406

Phone: 312/577-7000 Fax: 312/577-7007

### **Budapest Treaty Deposits**

## American Type Culture Collection



10801 University Blvd., Manassas, VA 20110-2209 Phone (703) 365-2700; fax (703) 365-2745; e-mail applied-sci@atcc.org

TO DEPOSIT OR TO CONVERT A DEPOSIT TO MEET THE REQUIREMENTS OF THE BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

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give name, when source of isolar vector, clone on name of gene if seeds, emb	IS MUST BE COMPLETED IN ENGINEER. If microorganism, give complete the plant or animal, and source ation, and any known hazards assort library is derived, source of the Dand identity of the host organism; in the property of the post organism; in the property of the pro	ete scientific nincluding geog ciated (HIV, E DNA insert ider if consortia o non name, sci	rame including graphic location BV, etc.); if gentified by specion mixed culturientific name.	genus and spans	give tissue and sour give tissue and als, give name of an, mouse) or somet of the managers.	ce of material; if virus I species, geographica of organism from which
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Strain designati     The strain des	ion (i.e., number, symbols, etc.) ignation must correspond with t	ATCC		85 <sup>-</sup> 8		
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3. Is this an original	al deposit under the Budapest Trea	aty? 415				
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4. Is this a request indicate ATCC of	for a conversion of a deposit alreadesignation. $4rs$	dy at ATCC to	meet the requi	irements of th	ie Budapest Tre	aty? If so please
5. Is this deposit a	mixture of microcrganisms or cells'	NO.				
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	necessary to cultivate, test for viability presence. If plasmid, provide name of the control of	ie oi nost and	deposit. If mixt antibiotic resis	ture, provide o stance.	lescription of co	mponents and a
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7. Provide sufficient	t description so that ATCC may cor	nfirm deposit p	roperties (e.g.	. Gram negati	ve rod).	
a. If deposit is a d	cell culture, is it being cultured in th	e presence of	antibiotics? If	'so, please lis	t the antibiotics.	
b. If deposit is hyl	bridoma, what is the isotype of antii	body produce:	17 N/A			
		• •		_		
	rdous to humans? No A working with this strain? Health and Human Services at www					s the recommended Laboratories, 4th
. Availability: Prior t patent office. Sam	to the issuance of a U.S. Patent, AT oples must be provided to a specific the following questions must be ans	CC will only n	naka a cultura	erallahin a		depositor or relevant t Treaty instructs
	eposit or conversion to meet the re- le who requests a culture? If yes the intil the patent has issued. Yes	ere are no resi	incilons on dis	Treaty, do you tribution, Ansy	wish the deposi vering no will e	t to be made nsure the deposit
b) As of date of de available to reques If yes state which of	eposit or conversion to meet the rec stors which satisfy patent offices in countries.	quirements of countries not	the Budapest <sup>1</sup> signatory to the	Freaty, do you e Budapest Tre	wish the deposit eaty? Yes	to be made
Please note that if been released for o	you are converting your deposit to distribution due to the issuance of a	meet the requi	irements of the	Budapest Tre	aty and your depther distribution.	posit has already

After a U.S. patent issues and we are so notified USPTO Rules and Regulations (37 CFR 1.8	ed, ATCC makes the culture available to any 308 [a][2]).	yone who requests it, as allowed under
10. ATCC will notify you of your ATCC number.  Name of individual to notify:		plete.
Fax: 312-577-7017	Phone: 311-577-7000	E-mail: jakavelafirche
<ol> <li>Payment by check, or credit card (Masterca for billing have been made and approved. A</li> </ol>	ird, VISA or American Express), must accor TCC accepts Purchase Orders in the correc	npany the deposit unless prior arrangements
Purchase Order No.	Check No	
Credit Card number. Please indicate Masters	Card, VISA, or AE.	
Exp. Date:	Name shown on card:	
	(Please type	e or print clearly.)
Signature of card holder		
PAYMENT: ATCC MUST HAVE A BILLING ADDI	RESS, CONTACT PERSON, PHONE AND F	FAX NUMBER FOR ALL DEPOSITS:
	NNCAY - SULTE 1600	
1205 LaSalle Sr. Phone: 313-577-7000	Chicago IL 60603	
Phone: 312-577-7000	Fax: 312-577-700	7
12. Name, address, telephone and facsimile num  Lancs Kaucaca Fitch Eve  Chicago IL wobo3  MUST BE COMPLETED. Deposited on beha company or institute and not an individual.)	(Ref: Docket or Case No	
I understand and agree that the deposit may no (at least 30 years after the date of deposit or 5 longer), and that if a culture should die or be deposited to responsibility to replace it with a living culture embryos, and seeds, it is my responsibility to the seeds of the seeds	years after the date of the most recent re lestroyed during the life of the patent or to tof the same organism or cell. In the case supply a sufficient quantity for distribution	equest for the deposit, whichever is he period of time so specified, it is my as of viruses, cell cultures, plasmids, on for the period of time specified above.
Address: Thus Loselle Jr.	Chicago, 12 6660.	3
Address: 120 S LoSelle St.  Phone: 312-577-7000 Fax:	312-577-7007 E-mail: J	okare@firekesas Com
ADDRESS SHIPMENTS AND FORM TO THE ATT	American Type Cultur 10801 University Blvd Manassas, VA 20110	-2209 U.S.A.
STORAGE: Cultures are stored for 30 years from a required under the rules of patent offices in most of FEES: For current fees, check our Web site at www. 1703) 365-2700 ext. 329. All fees are subject to characteristics.	countries. w.atcc.org, request a fee sheet by e-mail to a	•
ATCC USE ONLY: ATCC DESIGNATION	REC'D	V.T. RESULT
Name of Deposit	Strain Designation:	

Form 32/1 Rev 2/00

### **Budapest Treaty Deposits**

### American Type Culture Collection

ATCC

10801 University Blvd., Manassas, VA 20110-2209 Phone (703) 365-2700; fax (703) 365-2745; e-mail applied-sci@atcc.org

TO DEPOSIT OR TO CONVERT A DEPOSIT TO MEET THE REQUIREMENTS OF THE BUDAPEST TREATY ON THE INTERNA-TIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

3	ALL QUESTIONS MUST BE COMPLETED IN ENGLISH. PLEASE USE ONE FORM FOR EACH STRAIN DEPOSITED.  1. Name of deposit. If microorganism, give complete scientific name including genus and species and source of material; if virus give name, whether plant or animal, and source including geographic location; if cell line, give tissue and species, geographical source of isolation, and any known hazards associated (HIV, EBV, etc.); if genetic materials, give name of organism from which vector, clone or library is derived, source of the DNA insert identified by species (e.g. human, mouse) or scientific name, and give name of gene and identity of the host organism; if consortia or mixed culture, each component of the mixture must be identified if seeds, embryos, insect eggs, etc., give common name, scientific name, and geographical source.
	FUNGI, ASPERGITIUS ORYZAC ATCC NO. 14156
2	Strain designation (i.e., number, symbols, etc.) ATCC NO. 14156  The strain designation must correspond with the vial labels.
3	Is this an original deposit under the Budapest Treaty? 465
	Is this a request for a conversion of a deposit already at ATCC to meet the requirements of the Budapest Treaty? If so please indicate ATCC designation.  465 ATCC Mo 14156
Ş.	Is this deposit a mixture of microorganisms or cells?
,	Provide details necessary to cultivate, test for viability, and store deposit. If mixture, provide description of components and a method to check presence. If plasmid, provide name of host and antibiotic resistance.  SAME AS ATIC 14156
7.	Provide sufficient description so that ATCC may confirm deposit properties (e.g., Gram negative rod).  5 4 p.1 C A S ATCC 14 1 5 C
	a. If deposit is a cell culture, is it being cultured in the presence of antibiotics? If so, please list the antibiotics.
	b. If deposit is hybridoma, what is the isotype of antibody produced?
В.	Is this strain hazardous to humans? No Animals? No Plants? No . If yes, what is the recommended biosafety level for working with this strain? (Refer to Biosafety in Microbiological and Biomedical Laboratories, 4th ed. U.S. Dept. of Health and Human Services at www.cdc.gov/od/ohs/biosfty/bmbl4/bmbl4toc.htm].
	Availability: Prior to the issuance of a U.S. Patent, ATCC will only make a culture available as instructed by the depositor or relevant patent office. Samples must be provided to a specific investigator if a pertinent patent office under the Budapest Treaty instructs ATCC to do so. The following questions must be answered:
	a) As of date of deposit or conversion to meet the requirements of the Budapest Treaty, do you wish the deposit to be made available to anyone who requests a culture? If yes there are no restrictions on distribution. Answering no will ensure the deposit is not available until the patent has issued. Yes No
,	b) As of date of deposition conversion to meet the requirements of the Budapest Treaty, do you wish the deposit to be made available to requestors which satisfy patent offices in countries not signatory to the Budapest Treaty? Yes No If yes state which countries.
	Please note that if you are converting your deposit to meet the requirements of the Budapest Treaty and your deposit has aiready

been released for distribution due to the issuance of a U.S. patent, you cannot restrict it from further distribution.

After a U.S. patent issues and we are so noti USPTO Rules and Regulations (37 CFR 1	fied, ATCC makes the c .808 [a][2]).	culture available to an	lyone who requests it, as allowed under
10. ATCC will notify you of your ATCC number.  Name of individual to notify:		viability testing is com	plete.
Fax: 312-577-7007	Phone: 3,1-	577 7ecu	E-mail: jaka vela firene
<ol> <li>Payment by check, or credit card (Masterd for billing have been made and approved.</li> </ol>	card, VISA or American ATCC accepts Purchas	Express), must acco e Orders in the correc	mpany the deposit unless phor arrangement at amount:
Purchase Order No		Check No	
Credit Card number. Please indicate Maste	erCard, VISA, or AE		
Exp. Date:	Name shown c	n card:(Please typ	e or print clearly.)
Signature of card holder			
PAYMENT: ATCC MUST HAVE A BILLING ADI	DRESS, CONTACT PE	RSON, PHONE AND	FAX NUMBER FOR ALL DEPOSITS:
FIRCH EUSN TAB. N. FI	AUNCAY - SU.	HE 1600	
1205 LoSalle St. Phone: 312-577-7000	Chicago 1	L 60603	
Phone: 312-577-7000	Fax:	577.700	7
12. Name, address, telephone and facsimile nu	imber of your attorney of	of record	1600 1205 Le Selle St.
Chicago IL wobos	(Ref: D	Docket or Case No	70432
MUST BE COMPLETED. Deposited on ber company or institute and not an individual.)	nalf of: (Verify with your		ns the deposit. The owner is usually a
I understand and agree that the deposit may (at least 30 years after the date of deposit or longer), and that if a culture should die or be responsibility to replace it with a living cultu embryos, and seeds, it is my responsibility to	5 years after the date destroyed during the re of the same organis	of the most recent r life of the patent or sm or cell. In the cas	equest for the deposit, whichever is the period of time so specified, it is my es of viruses, cell cultures, plasmids,
JAMES P. KRUECER  Typed Name	$\frac{1}{2}$	dantity for distribution	AUG 0 2 2001
Typed Name	Signatur	re	Date
Address: 120 5 Loselle St	Chicago	16 6660	<u>3</u>
Address: 120 5 Lo S elle S 1  Phone: 312-571-7000 Fa	x. <u>312-577-7</u>	ア <u>ベフ</u> E-mail: ナ	pkriolofipheles com
ADDRESS SHIPMENTS AND FORM TO THE A	ITENTION OF:	Patent Depository American Type Cultu 10801 University Blvd Manassas, VA 20110	<b>i</b> .
STORAGE: Cultures are stored for 30 years from required under the rules of patent offices in most FEES: For current fees, check our Web site at w (703) 365-2700 ext. 320. All fees are subject to compare the compared to the	t countries. www.atcc.org, request a		•
ATCC USE ONLY: ATCC DESIGNATION	REC	C'D	V.T. RESULT
Name of Deposit	<u></u> s	Strain Designation:	

Form 3P/1 Rev. 2/00